

AMENDED IN ASSEMBLY AUGUST 12, 2008

AMENDED IN ASSEMBLY AUGUST 4, 2008

AMENDED IN SENATE APRIL 28, 2008

AMENDED IN SENATE APRIL 1, 2008

AMENDED IN SENATE MARCH 24, 2008

SENATE BILL

No. 1285

Introduced by Senator Corbett
(Coauthor: Assembly Member Laird)

February 19, 2008

An act to amend Section 5096.501 of, and to add Sections 5096.517 and 5096.518 to, the Public Resources Code, relating to state lands.

LEGISLATIVE COUNSEL'S DIGEST

SB 1285, as amended, Corbett. Resource conservation lands: acquisition.

Existing law authorizes various agencies to acquire land for purposes related to conservation. Existing law requires an acquisition agency, as defined, prior to approving the acquisition of conservation land, as defined, where an agency proposes to spend more than \$25,000,000 of state funds, to contract for at least one independent appraisal of the fair market value of the land. Existing law defines "acquisition agency" as the Wildlife Conservation Board or the State Coastal Conservancy and defines "conservation lands" as land or an interest therein to be acquired by an acquisition agency, or that is owned by the state and under the jurisdiction of the Wildlife Conservation Board, the State Coastal Conservancy, the Department of Fish and Game, or the Department of Parks and Recreation.

This bill would instead define “acquisition agency” as the Wildlife Conservation Board, the Department of Parks and Recreation, or a state conservancy. The bill would revise the definition of “conservation lands” to delete the requirement that the land owned by the state be under the jurisdiction of the Wildlife Conservation Board, the State Coastal Conservancy, the Department of Fish and Game, or the Department of Parks and Recreation.

This bill would require the Department of General Services to convene a workgroup to develop and adopt standards, subject to the approval of the Resources Agency, with respect to the acquisition of conservation lands concerning the appraisal process, availability of appraisal information, and valuation for purposes of a charitable contribution. The bill would require that the workgroup not exceed 6 members and that it include representatives from the Department of Parks and Recreation, the Wildlife Conservation Board, the State Coastal Conservancy, and one or more other state conservancies with land acquisition responsibilities. *The bill would require the workgroup to hold a public hearing to solicit public comments before adopting the standards.*

The bill would require the Department of General Services and the workgroup, by January 1, 2010, in developing standards for the appraisal of resource conservation acquisitions, including both direct and state-funded grant acquisitions, to consider specified subjects.

~~The bill would require the Franchise Tax Board to follow certain procedures in calculating the appropriate value of a charitable contribution claimed by a seller that is over \$5,000 on conservation land acquired using state funds.~~

The bill would require a seller claiming a charitable contribution that is over \$5,000 on conservation lands acquired using state funds to follow certain procedures to substantiate the value of the charitable contribution claimed by the seller.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 5096.501 of the Public Resources Code
- 2 is amended to read:
- 3 5096.501. For purposes of this chapter, the following terms
- 4 have the following meanings:

1 (a) “Acquisition agency” means the Wildlife Conservation
2 Board, the Department of Parks and Recreation, or a state
3 conservancy.

4 (b) “Conservation lands” means any land or interest therein to
5 be acquired by an acquisition agency, or that is owned by the state.

6 (c) “Major acquisition” means an acquisition where an agency
7 proposes to spend more than twenty-five million dollars
8 (\$25,000,000) of state funds.

9 SEC. 2. Section 5096.517 is added to the Public Resources
10 Code, to read:

11 5096.517. (a) The Department of General Services shall
12 convene a workgroup to develop and adopt standards, subject to
13 the approval of the Resources Agency, with respect to the
14 acquisition of conservation lands. The workgroup shall not exceed
15 six members and shall include, but not be limited to, representatives
16 from all of the following:

17 (1) The Department of Parks and Recreation.

18 (2) The Wildlife Conservation Board.

19 (3) The State Coastal Conservancy and one or more other state
20 conservancies with land acquisition responsibilities.

21 *(b) The workgroup shall hold a public hearing to solicit public*
22 *comments prior to the adoption of standards pursuant to*
23 *subdivision (a).*

24 ~~(b)~~

25 (c) In developing standards for the appraisal of resource
26 conservation acquisitions, including both direct and state-funded
27 grant acquisitions, the Department of General Services and the
28 workgroup shall consider, by January 1, 2010, all of the following:

29 (1) Qualifications of the appraiser, including, but not limited
30 to, all of the following:

31 (A) The appraiser shall not engage in any appraisal activity in
32 connection with the purchase, sale, transfer, financing, or
33 development of real property if his or her compensation is
34 dependent on or affected by the value determined by the appraisal.

35 (B) The appraiser shall be appropriately licensed by the Office
36 of Real Estate Appraisers pursuant to Part 3 (commencing with
37 Section 11300) of Division 4 of the Business and Professions Code.

38 (C) The appraisal shall be performed pursuant to the Uniform
39 Standards of Professional Appraisal Practice.

1 (D) Any additional qualifications regarding education,
2 certification, and years of experience deemed to be necessary by
3 the Department of General Services and the workgroup.

4 (E) This paragraph does not limit the ability of a public agency
5 to award a contract based on appraiser qualifications, including
6 designations, experience, and other factors deemed necessary to
7 perform an appraisal on a specific assignment, that exceed the
8 qualifications of this paragraph.

9 (2) Appraisal methodology to be used.

10 (3) Scope of the analysis and level of information provided in
11 the appraisal report, including, but not limited to, both of the
12 following:

13 (A) Verifiable data on the development potential of the land,
14 such as what would be required for a development project to
15 proceed.

16 (B) Reports documenting suspected environmental
17 contamination.

18 (4) Reference to comparable government and conservation
19 transactions when available.

20 (5) Age of the appraisal or appraisal update to be reviewed by
21 the department to keep an appraisal from being over one and
22 one-half years old.

23 (6) Appraisal of conservation easements, using the information
24 from the “Valuation of Conservation Easements Certificate
25 Program” created by members of the Appraisal Foundation and
26 the Land Trust Alliance as guidelines.

27 (7) Standards for the release of the appraisal review, including,
28 but not limited to, both of the following:

29 (A) Guidelines to state resource agencies for public disclosure
30 requirements.

31 (B) Improvement of the legislative notification process for better
32 oversight, including, when requested by the Legislature, provision
33 of a copy of the appraisal review for a major acquisition before
34 the close of escrow.

35 SEC. 3. Section 5096.518 is added to the Public Resources
36 Code, to read:

37 5096.518. For a charitable contribution claimed by a seller that
38 is over five thousand dollars (\$5,000) on conservation lands
39 ~~acquired using state funds, to calculate the appropriate value of a~~

1 charitable contribution claimed by the seller, the Franchise Tax
2 Board shall do all of the following:

3 (a) ~~Use an appraisal conducted by an appraiser appropriately~~
4 ~~licensed by the Office of Real Estate Appraisers pursuant to Part~~
5 ~~3 (commencing with Section 11300) of Division 4 of the Business~~
6 ~~and Professions Code.~~

7 (b) ~~Meet applicable standards developed by the working group~~
8 ~~created pursuant to Section 5096.517.~~

9 (e) ~~Meet federal guidelines. acquired using state funds, in order~~
10 ~~to substantiate the amount of the charitable contribution deduction~~
11 ~~claimed by the seller pursuant to Part 10 (commencing with Section~~
12 ~~17001) or Part 11 (commencing with Section 23001) of Division~~
13 ~~2 of the Revenue and Taxation Code, both of the following~~
14 ~~requirements shall apply:~~

15 (a) *The seller shall attach to his or her California personal*
16 *income tax return a copy of an appraisal of the charitable*
17 *contribution, in accordance with subdivision (b).*

18 (b) *The appraisal attached to the return shall be prepared by*
19 *an appraiser licensed by the Office of Real Estate Appraisers*
20 *pursuant to Part 3 (commencing with Section 11300) of Division*
21 *4 of the Business and Professions Code and shall comply with the*
22 *applicable requirements of the Revenue and Taxation Code and*
23 *the Internal Revenue Code for purposes of substantiating the*
24 *amount of the contribution for California income and franchise*
25 *tax purposes and federal income tax purposes.*